

REMARKS

I. Introduction

This application is a continuation of pending application serial number 10/199,222, filed July 18, 2002, which is a continuation of application serial number 09/550,371, filed April 14, 2000, now U.S. patent no. 6,464,986 B1.

The title of this application has been replaced by a title more descriptive of the claimed subject matter and a cross reference to the parent applications has been added after the title.

Applicants hereby cancel claims 1, 4-5, 9, 12-13, and 22-23 without prejudice to further prosecution at a later date.

New claim 28 ("treatment of neuralgia") is supported by at least Example 3 on page 42 of the application.

New claim 29 ("trigeminal neuralgia") is supported by at least page 5, line 12 ("trigeminal neuralgia") and by Example 3 on page 42 of the application.

New claims 30 ("serotypes A to G") is supported by at page 29, lines 5-6 of the specification.

New claim 31 ("post-operative incisional wound") is supported by at least Example 8 on pages 44-45 of the specification (treating post operative pain due to an incision into the patient's dermis).

No new matter is added by any of the claim amendments or by the new claims.

II. Request for Declaration of Interference

As permitted by 37 C.F.R. section 1.604 applicants request that an interference be declared between this application and pending U.S. patent application US 2002/0192239 A1 (copy attached).

Claims 28 to 31 in this application are identical to, respectively, claims 1-2 and 11-12 of U.S. patent application US 2002/0192239 A1.

A proposed count suggested by applicants is:

A method for treating pain caused by neuralgia comprising administering botulinum toxin to an afflicted area of a patient.

Claim 28 in the present application corresponds to the proposed count. Claim 1 in U.S. patent application US 2002/0192239 A1 corresponds to the proposed count.


An interference should be declared because applicants priority filing date is April 14, 2000. The priority filing date of U.S. patent application US 2002/0192239 A1 January 9, 2001. Both applications are pending before the U.S. patent office. Both applications contain claims directed to identical subject matter. Hence, declaring an interference would be appropriate.

III. Conclusion

Allowance of pending claims 28-31 and declaration of an interference with regard to U.S. patent application US 2002/0192239 A1 is requested.

Respectfully Submitted,

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Stephen Donovan
Registration Number 33,433

Please direct all correspondence and inquiries to:

Stephen Donovan
Legal Department
Allergan, Inc.
2525 Dupont Drive
Irvine, California 92612
Telephone: 714 246 4026
Fax: 714 246 4249

CERTIFICATE OF EXPRESS MAILING UNDER 37 C.F.R. § 1.10

I hereby certify that this Preliminary Amendment and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date July 29, 2003 in an envelope as "Express Mail Post Office to Addressee" Mailing Label number EV295683016US addressed to Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Susan Bartholomew

Name of person mailing paper



Signature of person mailing paper

Date: July 29, 2003

MARKED VERSION OF PAGE ONE OF THE SPECIFICATION

**NEURALGIA PAIN TREATMENT BY PERIPHERAL ADMINISTRATION OF A
NEUROTOXIN**

by

Kei Roger Aoki, Minglei Cui and Stephen Jenkins

CROSS REFERENCE

This application is a continuation of application serial number 10/199222, filed July 18, 2002, which is a continuation of serial number 09/550,371, filed April 14, 2000, now U.S. patent no. 6,464,986 B1, the entire contents of which prior application and patent are incorporated herein by reference in their entireties.

BACKGROUND

The present invention relates to methods for treating pain. In particular, the present invention relates to methods for treating pain by peripheral administration of a neurotoxin.

Many, if not most ailments of the body cause pain. Generally pain is experienced when the free nerve endings which constitute the pain receptors in the skin as well as in certain internal tissues are subjected to mechanical, thermal, chemical or other noxious stimuli. The pain receptors can transmit signals along afferent neurons into the central nervous system and thence to the brain.

The causes of pain can include inflammation, injury, disease, muscle spasm and the onset of a neuropathic event or syndrome. Ineffectively treated pain can be devastating to the person experiencing it by limiting function, reducing mobility, complicating sleep, and dramatically interfering with the quality of life.

A muscle spasm can lead to stimulation of mechanosensitive pain receptors thereby causing a sensation of pain. Thus, pain can arise from or be due to a muscle spasm.

Additionally, the spasm can indirectly stimulate the pain receptors by compressing onto blood vessels, causing ischemia in the tissue, which in turn releases pain inducing substances that stimulate pain receptors to cause pain sensations.

Furthermore, a muscle spasm can cause a localized pH reduction which can be perceived as or which can engender pain signals. Hence, pain can be a secondary effect of a muscle spasm or muscle hypertonicity.

MARKED UP VERSION OF THE CLAIMS

Claim 1 (currently cancelled).

Claims 2-3 (previously cancelled).

Claims 4-5 (currently cancelled).

Claims 6-8 (previously cancelled)

Claim 9. (currently cancelled).

Claims 10-11 (previously cancelled)

Claim 12. (currently cancelled).

Claim 13. (currently cancelled).

Claims 14-21 (previously cancelled).

Claims 22-23 (currently cancelled).

Claims 24-27 (previously cancelled).

Claim 28 (new) A method for treating pain caused by neuralgia comprising administering botulinum toxin to an afflicted area of a patient.

Claim 29 (new) The method of claim 28, wherein the pain is caused by trigeminal neuralgia.

Claim 30 (new) The method of claim 1, wherein the botulinum toxin is selected from the group consisting of immunotypes A-G.

Claim 31 (new) A method for treating post-operative incisional wound pain comprising administering botulinum toxin to an afflicted area of a patient.